



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

J.M. Raffauf, Esq.
1064 Wachovia Building
315 W. Ponce de Leon
Decatur, GA 30030

SEP 16 2009

RE: MUR 6107
Cynthia McKinney for Congress and
Joan Christian, in her official
capacity as treasurer

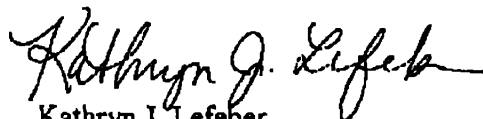
Dear Mr. Raffauf:

On September 11, 2009, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 441a(f) and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files*, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that a copy of the agreement with accompanying cover letter must be submitted to the Commission's Reports Analysis Division, pursuant to Paragraph VI.3. of the agreement. If you have any questions, please contact me at (202) 694-1650.

Sincerely,


Kathryn J. Lefeb
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Cynthia McKinney for Congress and
Joan Christian, in her official capacity
as treasurer

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MUR 6107

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe Cynthia McKinney for Congress and Joan Christian, in her official capacity as treasurer ("Respondents"), violated 2 U.S.C. §§ 441a(f) and 434(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

Applicable Law

1. The Committee was prohibited from receiving more than a total of \$2,100 per election from any one person. 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. § 110.1(a) and (b).

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2. No candidate or political committee shall knowingly accept any contributions that exceed the limits established by 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

3. If a committee receives a contribution that appears to be excessive, the committee must either: 1) return the questionable contribution to the donor; or 2) deposit the contribution into its federal account and keep enough funds in the account to cover all potential refunds until the legality of the contribution is established. 11 C.F.R. § 103.3(b)(3) and (4).

4. The Commission's regulations provide that a treasurer of a political committee may redesignate a contribution that exceeds the contribution limits to another election if, among other things, the treasurer of the committee notifies the contributor in writing, within 60 days from the date of the receipt of the contribution, that the contribution was redesignated and that the contributor may request a refund of the contribution. 11 C.F.R. § 110.1(b)(5).

5. The Commission's regulations also provide that a treasurer of a committee may reattribute the excessive portion of a contribution to another individual whose name appears on the written instrument used to make the contribution, 11 C.F.R. § 110.1(k)(3)(ii)(B)(1), and the treasurer is required, within 60 days of receipt of the contribution, to notify the contributor of the reattribution and the option to request a refund. 11 C.F.R. § 110.1(k)(3)(ii)(B)(2) and (3).

6. Each treasurer of a political committee is required to file reports of receipts and disbursements in accordance with 2 U.S.C. § 434(a). Each report shall disclose the amount of cash on hand at the beginning and end of the reporting period, the total amount of all receipts for the reporting period and calendar year, and the total amount of all disbursements for the reporting period and the calendar year. 2 U.S.C. § 434(b) (1), (2) and (4).

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Factual Background

7. Respondents are Cynthia McKinney for Congress, the principal campaign committee for Cynthia McKinney's 2006 Congressional race, and Joan Christian, in her official capacity as treasurer.

8. Pursuant to 2 U.S.C. § 438(b), the Commission conducted an audit of Cynthia McKinney for Congress ("the Committee"). The audit covered the period from January 1, 2005 through December 31, 2006.

9. Based upon the audit, the Commission found that the Committee received 14 contributions from individuals and political committees, totaling \$21,300, that exceeded the limits established by 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(2)(A).

10. Of the excessive contributions, \$11,100 were eligible for redesignation and/or reattribution. The Committee failed to obtain signed redesignations or reattributions from contributors or provide notifications to contributors of such redesignations or reattributions within 60 days.

11. Of the remaining \$10,200 in excessive contributions that exceeded the limit per election, the Committee provided evidence that \$500 was not excessive. The remaining \$9,700 was not eligible for reattribution and/or redesignation.

12. The Commission's audit further discovered that the Committee did not properly disclose its financial activity in 2005 and 2006.

13. In 2005, the Committee overstated its opening cash balance by \$9,356, failed to report \$13,193 in receipts from individuals and political committees, reported \$2,280 in contributions from individuals not supported by deposit and had a \$10 unexplained difference. Further, the Committee failed to report \$8,703 in disbursements, reported \$246 in disbursements incorrectly, and misstated its ending cash balance by \$6,910.

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14. In 2006, the Committee overstated its opening cash balance by \$6,910, it failed to report \$96,489 in receipts from individuals, reported \$5,708 from individuals and political committees not supported by deposit, and had a \$225 unexplained difference. Further, the Committee failed to report \$92,259 in operating expenditures, \$80,630 in disbursements to poll workers, had a \$2 unexplained difference, and misstated its ending cash balance \$89,245.

V. Respondents committed the following violations:

1. The Committee violated 2 U.S.C. § 441a(f) by accepting excessive contributions.
2. The Committee violated 2 U.S.C. § 434(b) by failing to properly disclose receipts, disbursements, and cash on hand.

VI. Respondents will take the following actions:

1. Respondents will pay Six Thousand Dollars (\$6,000) as a civil penalty to the Federal Election Commission, pursuant to 2 U.S.C. § 437g(a)(5)(A). In ordinary circumstances, the Commission would seek a substantially higher civil penalty based on the violations outlined in this agreement as well as the mitigating circumstances, including that the Respondents reattributed, redesignated, and refunded contributions received in violation of 2 U.S.C. § 441b(a) as directed by the Commission's auditors. However, the Commission is taking into account the fact that the Committee has no cash on hand, that Cynthia A. McKinney has negotiated to pay the civil penalty for Respondents and has loaned the Committee funds to refund excessive contributions that were not eligible for reattribution or redesignation, and that the Committee made the required refunds.
2. Respondents will cease and desist from violating 2 U.S.C. §§ 441a(f) and 434(b).

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3. In lieu of filing comprehensive amended reports for the calendar years 2005 through 2006, Respondents will submit an executed copy of this Agreement to the Commission's Reports Analysis Division as a miscellaneous disclosure report for Cynthia McKinney for Congress. The Agreement shall be accompanied by a cover letter stating that this submission is being made at the request of the Office of General Counsel pursuant to Paragraph VI. 3. of this Agreement.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Except as otherwise provided, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.


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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

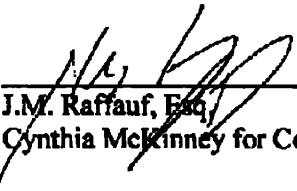
Thornasenia P. Duncan
General Counsel

BY:


Ann Marie Terzaken
Associate General Counsel
For Enforcement

9/15/09
Date

FOR THE RESPONDENTS:


J.M. Raffauf, Esq.
Cynthia McKinney for Congress

8/17/2009
Date

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